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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,161	10/01/2003	Keith E. Forrester	1889.2004-001	8175

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EXAMINER	
KRECK, JOHN J	

ART UNIT	PAPER NUMBER
3673	

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/677,161	FORRESTER, KEITH E.	
	Examiner	Art Unit	
	John Kreck	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-22 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-22 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. Claims 1-5, 8, 9, 11, 12, 14-18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forrester (U.S. Patent number 5,846,178) in view of U.S. Patent number 4,180,545.

Forrester teaches the process including contacting waste with phosphoric acid.

Forrester fails to explicitly disclose the "wet-process" phosphoric acid; but teaches that broadly "phosphoric acids" can be used.

Wet process phosphoric acids are well known types of phosphoric acid; and are advantageous in that they have lower cost (see U.S. Patent number 4,180,545—col. 2, line 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Forrester process to have included wet process phosphoric acid, since it is less expensive than purified phosphoric acid.

With regards to claims 2-4; Official notice is taken of the fact that merchant grade phosphoric acid, amber phosphoric acid, and green phosphoric acid are well known types of less purified phosphoric acids, which are also advantageous in that they have lower cost. It would have been obvious to one of ordinary skill in the art at the time of the invention to have used merchant grade phosphoric acid, amber phosphoric acid, and green phosphoric acid as called for in claims 2-4, since the cost would be less.

Forrester teaches the complexing agent as called for in claim 5.

Regarding independent claim 8:

Forrester teaches the process including contacting waste with phosphoric acid.

Forrester fails to explicitly disclose the "wet-process" phosphoric acid; but teaches that broadly "phosphoric acids" can be used.

Wet process phosphoric acids are well known types of phosphoric acid; and are advantageous in that they have lower cost (see U.S. Patent number 4,180,545—col. 2, line 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Forrester process to have included wet process phosphoric acid, since it is less expensive than purified phosphoric acid.

Forrester teaches the complexing agent as called for in claim 9.

Regarding independent claim 11:

Forrester teaches the process including contacting waste with phosphoric acid.

Forrester fails to explicitly disclose the "wet-process" phosphoric acid; but teaches that broadly "phosphoric acids" can be used.

Wet process phosphoric acids are well known types of phosphoric acid; and are advantageous in that they have lower cost (see U.S. Patent number 4,180,545—col. 2, line 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Forrester process to have included wet process phosphoric acid, since it is less expensive than purified phosphoric acid.

Forrester teaches the complexing agent as called for in claim 12.

Regarding independent claim 14

Forrester teaches the process including contacting waste with phosphoric acid.

Forrester fails to explicitly disclose the "wet-process" phosphoric acid; but teaches that broadly "phosphoric acids" can be used.

Wet process phosphoric acids are well known types of phosphoric acid; and are advantageous in that they have lower cost (see U.S. Patent number 4,180,545—col. 2, line 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Forrester process to have included wet process phosphoric acid, since it is less expensive than purified phosphoric acid.

With regards to claims 15-17; Official notice is taken of the fact that merchant grade phosphoric acid, amber phosphoric acid, and green phosphoric acid are well known types of less purified phosphoric acids, which are also advantageous in that they have lower cost. It would have been obvious to one of ordinary skill in the art at the time of the invention to have used merchant grade phosphoric acid, amber phosphoric acid, and green phosphoric acid as called for in claims 2-4, since the cost would be less.

Forrester teaches the complexing agent as called for in claim 18.

Regarding independent claim 21

Forrester teaches the process including contacting waste with phosphoric acid and complexing agent.

Forrester fails to explicitly disclose the "wet-process" phosphoric acid; but teaches that broadly "phosphoric acids" can be used.

Wet process phosphoric acids are well known types of phosphoric acid; and are advantageous in that they have lower cost (see U.S. Patent number 4,180,545—col. 2, line 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Forrester process to have included wet process phosphoric acid, since it is less expensive than purified phosphoric acid.

2. Claims 7, 10, 13, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forrester and U.S. Patent number 4,180,545 as applied to claims above, and further in view of Pal, et al. (U.S. Patent number 6,258,018).

Regarding dependent claims 7, 10, 13, and 20:

Forrester fails to teach the surfactant. Pal teaches that in a similar process, a surfactant is useful to increase its spreading or wetting properties (col. 7, line 35). It would have been further obvious to one of ordinary skill in the art at the time of the invention to have further modified the Forreester process to have included a surfactant as called for in claims 7, 10, 13, and 20; in order to increase the spreading properties of the treatment agent.

Regarding independent claim 22:

Forrester teaches the process including contacting waste with phosphoric acid and complexing agent.

Forrester fails to explicitly disclose the "wet-process" phosphoric acid; but teaches that broadly "phosphoric acids" can be used.

Forrester also fails to teach the surfactant.

Wet process phosphoric acids are well known types of phosphoric acid; and are advantageous in that they have lower cost (see U.S. Patent number 4,180,545—col. 2, line 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Forrester process to have included wet process phosphoric acid, since it is less expensive than purified phosphoric acid.

Pal teaches that in a similar process, a surfactant is useful to increase its spreading or wetting properties (col. 7, line 35).

It would have been further obvious to one of ordinary skill in the art at the time of the invention to have further modified the Forreester process to have included a surfactant as called for in claim 22; in order to increase the spreading properties of the treatment agent.

Claims 6 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forrester and U.S. Patent number 4,180,545 as applied to claims above, and further in view of Beutier, et al. (U.S. Patent number 4,568,525).

Forrester also fails to teach the calcium chloride.

Beutier teaches that calcium chloride and sodium chloride are generally known as art-recognized equivalents as complexing agents. It would have been obvious to one of ordinary skill in the art at the time of the invention to have further modified the Forrester process to have included calcium chloride as called for in claims 6 and 19; since it is generally recognized as equivalent.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is (703)308-2725. The examiner can normally be reached on M-F 5:30 am - 2:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703)308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John Kreck
Examiner
Art Unit 3673

JOHN KRECK
PRIMARY EXAMINER

JJK